

RECEIVED

AUG 22 1990

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In re Application of)
HISPANIC BROADCAST SYSTEM, INC.) File No. BPED-891128ME
For Construction Permit,)
Noncommercial FM Broadcast Station,)
Lake Mary, FL)

To: Chief, FM Brancy

OPPOSITION TO PETITION TO DISMISS OR DENY

Hispanic Broadcast System, Inc. ("Hispanic"), by its counsel, herewith submits its opposition to the PETITION TO DISMISS OR DENY filed by Florida Public Radio, Inc. ("FPR") in the above-captioned proceeding. In support whereof, the following is stated:

1. FPR asks the Commission to dismiss or deny the Hispanic application on the grounds that Hispanic has not complied with Section 73.525 of the Commission's Rules regarding protection of television Channel 6. However, FPR makes no showing of its own that the Hispanic proposal would cause objectionable interference to Channel 6.

2. Attached hereto is the Technical Exhibit ("TE-1"), prepared by Bromo Communications, Inc. ("Bromo") on behalf of Hispanic which fully responds to the allegations made by FPR. As indicated in TE-1, Hispanic's proposed facility "will not cause interference to WCPX [Channel 6]." (TE-1, p. 4).

3. In light of the fact that Hispanic's proposal will not cause interference to Channel 6, the procedural arguments raised by FPR must be denied due to the total lack of substantive

import pertaining thereto.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the Commission deny the PETITION TO DISMISS OR DENY filed by Florida Public Radio, Inc. in connection with the above-captioned application.

Respectfully submitted,

Law Offices
JAMES L. OYSTER
Rt. 1, Box 203 A
Castleton, VA 22716
(703) 937-4800

HISPANIC BROADCAST
SYSTEM INC.

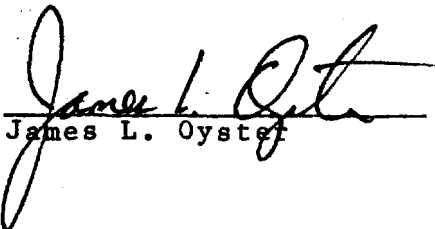
By


James L. Oyster
Counsel

CERTIFICATE OF SERVICE

James L. Oyster hereby certifies that he has sent a copy of the foregoing by first class U.S. mail, postage prepaid, or by hand delivery, on or before the 22nd day of August, 1990 to the following:

Randy Henry, President
Florida Public Radio, Inc.
505 Josephine St.
Titusville, FL 32796


James L. Oyster

OPPOSITION TO PETITION TO DISMISS OR DENY
NEW NON-COMMERCIAL FM
HISPANIC BROADCAST SYSTEM
LAKE MARY, FLORIDA
August 1990

Technical Exhibit
TE-1

Bromo Communications, Inc.
1200 Eighteenth Street, NW - Suite #206
Washington, DC 20036
(202) 429-0600

©Copyright 1990 - All rights reserved

OPPOSITION TO PETITION TO DISMISS OR DENY
NEW NON-COMMERCIAL FM
HISPANIC BROADCAST SYSTEM
LAKE MARY, FLORIDA
August 1990

TECHNICAL STATEMENT

1. These technical comments and attached exhibits were prepared on behalf of Hispanic Broadcast System, ("Hispanic"), an applicant proposing to construct a new non-commercial FM station on Channel 202C2 at Lake Mary, Florida. The comments are in opposition to the Petition to Dismiss or Deny filed against Hispanic's application by Florida Public Radio, Inc., ("FPR"). In its Petition, FPR notes that Hispanic and two other of the six mutually exclusive applicants for this non-commercial station are proposing to locate their antenna systems on an existing tower in close proximity to WCPX, Channel 6, Orlando, Florida. FPR states its objection to the form of Hispanic's agreement with WCPX regarding the proposed FM station. Further, FPR objects to Hispanic's request for processing based on "co-location" with Channel 6 per §73.525(d) of the Commission's Rules.

DISCUSSION

2. Hispanic has coordinated its proposal with WCPX and had received a letter from the Chief Engineer of WCPX, Mr. Robert K. Diehl, stating that Channel 6 was "willing to cooperate" with Hispanic. A copy of the letter was attached to Hispanic's application. The WCPX letter also asks that

Hispanic work with Channel 6 to eliminate any possible interference. Hispanic has previously, and again states that it will, cooperate fully with WCPX to address any interference complaints caused by the operation of the non-commercial FM station to WCPX-TV. The WCPX letter from Mr. Diehl, a copy of which is attached here as Exhibit # 1, was reviewed by other WCPX management personnel prior to being mailed to Hispanic.

3. FPR's concern regarding the term "co-location" is based on the distance between WCPX and the proposed FM site; the two facilities are separated by 2.96 kilometers (1.84 miles). In order to be truly co-located under §73.525(d), the distance between the proposals should not exceed 0.4 kilometers. An attempt was made by Hispanic to locate its antenna system on the WCPX tower. However, Hispanic was informed by the co-owner of the WCPX tower that due to the existence of three commercial FM station antennas and three television station antennas, the tower could not accommodate any additional tenants. Therefore, Hispanic tried to locate another structure as close to WCPX as possible. It secured the use of an adjacent tower, utilized by other area FM and television stations. Hispanic voluntarily reduced its proposed effective radiated power to 1.9 kilowatts, the power level at which it could have operated at if it were located on the WCPX tower. Detailed interference showings were not included with Hispanic's application since the relationship between the WCPX protected contours and Hispanic's FM interfering contours were nearly identical to those which would have existed if Hispanic had located its

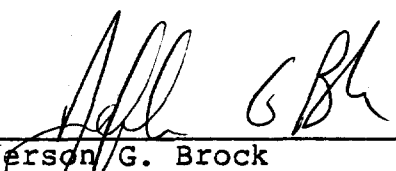
facility on the WCPX tower, under a true co-location situation.

4. Using §73.525(e) regulations, we calculated that Hispanic's facility, operating at its proposed power and height from the adjacent tower, will not cause interference to WCPX. This is based on using a series of WCPX protected contours and the associated non-commercial FM interfering contours from Figure 1, §73.599 of the Commission's Rules (as shown on Exhibit # 2). Distance to WCPX's 47 dBu contour, based on 100 kilowatts at 445 meters height above average terrain, is 115.4 kilometers. Hispanic's interfering contour 50.8 dBu FCC F(50/10) extends 63.1 kilometers. The Hispanic contour falls over 52 kilometers short of reaching WCPX's protected contour. For that matter, at 63.4 kilometers from the WCPX site, Channel 6 has a 68 dBu signal, nearly 20 db higher than Hispanic's interfering contour level of only 50.8 dBu at 63.1 kilometers. The undesired-to-desired ratio is never reached at any of the WCPX contours. Exhibit # 2 shows other WCPX contour values and the associated Hispanic interfering contours, tabulated every three db. The table clearly shows in every instance that Hispanic's proposal will not cause interference to WCPX based on the FM/TV 6 protection ratios contained in Figure 1 of §73.599. The tabulation of protected and interfering contours were made out to the extreme of the Figure 1 sliding scale.

SUMMARY

5. In its application, Hispanic stated in Exhibit # 7 that it had coordinated its proposal with Channel 6 and was willing to continue working with WCPX to eliminate any interference caused to Channel 6 by the non-commercial educational FM station at Lake Mary. Hispanic also noted that it would supply additional information regarding potential interference between its proposal and WCPX should the Commission request it. Since Hispanic has demonstrated that no interference will result from the proper operation of its proposed station to Channel 6, based on §73.525(e), and Hispanic has coordinated its proposal with a representative of the management at WCPX, and secured concurrence, Florida Public Radio's Petition should be dismissed as moot.

Dated: August 20, 1990



Jefferson G. Brock
Bromo Communications, Inc.
Technical Consultant to:
Hispanic Broadcast System

June 29, 1989



Hispanic Broadcast Systems
c/o Bromo Communications, Inc.
1200 18th Street N.W. Suite #206
Washington, D.C. 20036

To Whom it may concern,

Thank you for consulting with WCPX, Ch6, in regard to your seeking of an FM allocation of 88.3 MHz in the Orlando area. I am very concerned of any interference potential that could cause reception problems to our viewers, since our aural carrier is assigned to 87.74 MHz.

As I told you earlier, collocation at our transmitter site cannot happen due to the near saturation point of our 1,500 ft. tower. It presently is accommodating three television and three FM's plus auxiliary equipment for these six operations. This is a jointly owned and operated venture of TV Tower, Inc. TV Tower has declined all space requests for some time now for this reason.

The Gannet tower, which you propose going on is approximately one and one quarter miles from WCPX's transmitter site. While this does not fall under the Commission's guidelines to satisfy co-location, I feel that it is a workable situation. WCPX is willing to cooperate with you on this, as long as you assure me that you will address and solve any and all interference problems that your 88.3 MHz Station may cause to WCPX viewers. The area around the Gannet Tower is sparsely populated and I don't see much of an interference potential at the present time. However, with the growth rate that we are experiencing in the Orlando area, a few years from now this area may become populated.

WCPX is happy to cooperate with you on seeking your license. Best of luck to you on your application.

EXHIBIT #7A
NEW EDUCATIONAL FM STATION
HISPANIC BROADCAST SYSTEM
CH 202C2 - 88.3 MHZ - 1.9 KW
LAKE MARY, FLORIDA

OCTOBER 1990

Respectfully,

Robert K. Diehl
Robert K. Diehl
Chief Engineer

copy; Michael J. Schweitzer, G.M., file

© P.O. Box 606000 • Orlando, FL 32860 (305) 291-6000 ©

WCPX LETTER

EXHIBIT #1
OPPOSITION TO PETITION TO
DISMISS OR DENY
NEW NON-COMMERCIAL FM
HISPANIC BROADCAST SYSTEM
LAKE MARY, FLORIDA
AUGUST 1990

BROMO
COMMUNICATIONS
BROADCAST
TECHNICAL CONSULTANTS
St Simons Island, Georgia
Washington, D.C.

TABULATED DISTANCES
PROTECTED CONTOUR OF WCPX, CHANNEL 6, ORLANDO, FLORIDA
AND
INTERFERING CONTOURS OF NEW NON-COMMERCIAL FM,
LAKE MARY, FLORIDA

WCPX (100 KW & 445 meters HAAT)

New FM (1.9 KW & 306 meters HAAT)

<u>Protected Contour (dBu) (FCC) (50/50)</u>	<u>Dist. (KM)</u>	<u>Interfering Contour (dBu) (FCC) (50/10)*</u>	<u>Dist. (KM)</u>	<u>Contour Buffers (KM)</u>
47 dBu	115.4	50.8 dBu	63.1	52.3
50 dBu	106.9	53.0 dBu	57.2	49.7
53 dBu	99.1	54.4 dBu	53.6	45.5
56 dBu	92.3	56.4 dBu	48.6	43.7
59 dBu	85.5	58.5 dBu	43.2	42.3
62 dBu	78.2	60.5 dBu	38.5	39.7
65 dBu	70.6	62.5 dBu	34.3	36.3
68 dBu	63.4	65.0 dBu	30.2	33.2
71 dBu	56.5	67.6 dBu	26.2	30.3
74 dBu	50.0	70.3 dBu	22.3	27.7
77 dBu	43.5	73.0 dBu	18.6	24.9
80 dBu	37.5	75.8 dBu	15.3	22.2
83 dBu	32.3	78.5 dBu	13.3	19.0
86 dBu	27.5	81.5 dBu	11.2	16.3
89 dBu	23.2	84.0 dBu	9.6	13.6
90 dBu	21.8	84.8 dBu	9.1	12.7

* Contour value determined per §73.599, Figure 1, FM/TV 6
Protection Ratios based on median receivers. WCPX protected
contour and New FM interfering contour projected to extreme
of sliding scale in Figure 1, §73.599.

INTERFERENCE CALCULATIONS

EXHIBIT #2
OPPOSITION TO PETITION TO
DISMISS OR DENY
NEW NON-COMMERCIAL FM
HISPANIC BROADCAST SYSTEM
LAKE MARY, FLORIDA
AUGUST 1990

BROMO
COMMUNICATIONS
St Simons Island, Georgia
BROADCAST
TECHNICAL CONSULTANTS
Washington, D. C.

ORIGINAL

910205mg

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC MAIL SECTION

FEB 5 12 19 PM '91

In re Application of

HISPANIC BROADCAST SYSTEM, INC.

For Construction Permit, New Non-
Commercial FM Station, Lake Mary, FL

To: Chief, FM Branch

RECEIVED BY
File No. BPED-891128ME

RECEIVED

FEB 06 1991

PETITION FOR LEAVE TO AMEND ~~FM EXAMINER~~

FEB 6 3 17 PM '91
AUDIO SERVICES
DIVISION

Hispanic Broadcast System, Inc. ("HBS"), by its counsel,
herewith petitions for leave to amend its above-captioned appli-
cation. In support whereof the following is stated:

1. The attached amendment is a minor amendment, making a
substitution in the board of directors of the applicant, which is
a non-profit corporation. The filing of the instant amendment is
required by Section 1.65 of the Commission's Rules.

2. The amendment is being filed prior to the designation of
the matter for hearing. It is a minor amendment and "good cause"
exists for acceptance thereof. See Sands Broadcasting Corp., 22
R.R. 106, 110 (H.E. 1961). Accord, Radio Ridgefield, Inc., 47
F.C.C. 2d 402 (Rev. Bd. 1974), Click Broadcasting Co., 25 F.C.C.
2d 511 (Rev. Bd. 1970), Erwin O'Connor Broadcasting Co., 22
F.C.C. 2d 140 (Rev. Bd. 1970), Ultravision Broadcasting Co., 11
F.C.C. 2d 394 (Rev. Bd. 1968).

3. The applicant has acted with due diligence in submitting
the amendment within 30 days of the date of the change being
reported. Acceptance of the amendment will not necessitate the

modification or addition of issues or parties. The other parties will not be prejudiced by the acceptance of the amendment, and the applicant does not seek nor will it obtain any comparative advantage from the information provided by the amendment.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the attached amendment be accepted for filing.

Respectfully submitted,

Law Offices
JAMES L. OYSTER
Rt. 1, Box 203A
Castleton, VA 22716
(703) 937-4800

February 5, 1991

HISPANIC B/CAST SYSTEM, INC.

By

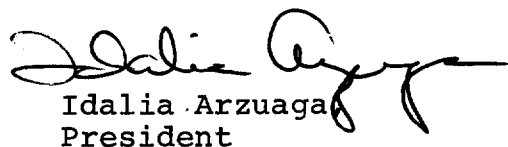

James L. Oyster
Counsel

A M M E N D M E N T

The applicant of Hispanic Broadcast Systems, Inc.
for a new non-commercial broadcast station at Lake Mary,
Florida is hereby ammended as follows:

Sonia Arzuaga has been replaced by José J.
Arzuaga as a member of the board of directors
of the corporation.

Respectufully Presented,


Idalia Arzuaga
President

**CHECKLIST FOR APPLICATIONS
DESIGNATED FOR HEARING (HDO)**

1. Associate HDO with correct applications.
(i.e., Match File Numbers, City, State, etc.) ☐
2. Attach Form A-378 (Form 106) to each application. ☐
3. Check to assure all amendments and correspondence
are included in file. ☐
4. Put file in order, with application first. ☐
5. Check original against duplicate to assure they
are identical. ☐

PREPARED BY

DATE